

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DAVID CARLTON BROWN.

CASE NO. 08 CV 0017 JM (NLS)

Petitioner.

**ORDER GRANTING MOTION
FOR ENLARGEMENT OF TIME
TO FILE ANSWER AND TO FILE
LODGMENTS**

1

Doc. No. 34

MATTHEW CATE, Secretary of the California Department of Corrections and Rehabilitation.

Respondent

18 Petitioner, proceeding *pro se* and *informa pauperis*, filed a petition for writ of habeas corpus
19 pursuant to 28 U.S.C. § 2254 on January 2, 2008. (Doc No. 1.) On February 3, 2009, the court denied
20 Respondent’s motion to dismiss without prejudice to a “renewed motion to dismiss” addressing the
21 merits of the Petition. (Doc. No. 33.) In that order, the court requested Respondent file several
22 additional lodgments and set a filing deadline for both the motion and lodgments for March 20, 2009.
23 The court clarifies a renewed motion to dismiss addressing the merits would constitute an Answer to
24 the petition.

25 Pending before the court is Respondent's motion for an enlargement of time to file the
26 requested lodgments and the Answer. The court observes Respondent has already sought two
27 extensions largely based on counsel's apparent inability to manage her workload, whereas Petitioner
28 has sought none. Further, Respondent was given more than six weeks to comply with the current

1 court order, and as in the past, waited until late afternoon on the date the submissions were due to file
 2 the request for an extension. The current request again stems from counsel's time management
 3 problems, as well as eleventh-hour "technological issues" and "the unpredictable availability of staff
 4 for processing." (Doc. No. 34 at 2.) Despite these flimsy explanations, in the interest of addressing
 5 issues on their merits, the court **GRANTS** Respondent's request, but cautions Respondent that any
 6 further such requests will meet with disfavor without a *strong* showing of good cause. The additional
 7 lodgments requested by the court shall be filed **no later than March 23, 2009.**¹ Respondent's Answer
 8 shall be filed **no later than April 3, 2009.** An Answer must comply with the instructions previously
 9 provided by the court. (See Doc. No. 7 at 2.)

10 If Respondent files an Answer, Petitioner may file a Traverse to matters raised therein **no later**
 11 **than May 4, 2009.**² Any traverse by Petitioner (a) shall state whether Petitioner admits or denies each
 12 allegation of fact contained in the answer; (b) shall be limited to facts or arguments responsive to
 13 matters raised in the answer; and (c) shall not raise new grounds for relief that were not asserted in
 14 the Petition. Grounds for relief withheld until the traverse will not be considered. No traverse shall
 15 exceed ten (10) pages in length absent advance leave of the court for good cause shown.

16 Unless otherwise ordered by the court, this case shall be deemed submitted on the day
 17 following the date Petitioner's traverse is due.

18 **IT IS SO ORDERED.**

19 DATED: March 25, 2009



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 21 Hon. Jeffrey T. Miller
 United States District Judge

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 27 ¹The court observes Respondent lodged the additional documents on March 23, 2009. (Doc.
 No. 35.)

28 ²Petitioner filed a "Traverse" on May 7, 2008 without there being an Answer on record. (Doc.
 No. 15.) The court construed that filing as an opposition to Respondent's first Motion to Dismiss.